

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

ANDREW CLARK,

Plaintiff,

vs.

WELLS FARGO BANK, et al.,

Defendants.

Case No. 6:20-cv-00253-AA  
**ORDER**

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AIKEN, District Judge:

Plaintiff Andrew Clark moves to dismiss his claims against defendants Sebastian Tapia, Ellen Rosenblum, Benjamin Gutman, Vanessa Nordyke, Ben Miller, and Peter Urias without prejudice and his claims against Hon. Michael Hogan with prejudice. Doc. 112.

Under Federal Rule of Civil Procedure 41, a plaintiff may dismiss an action or claims against defendants without a court order by filing either (1) “a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment,” or (2) “a stipulation of dismissal signed by” the relevant parties. Fed. R.

Civ. P. 41(a)(1)(A). If the opposing party has filed an answer or motion for summary judgment and does not stipulate to dismissal, the action or claims “may be dismissed at the plaintiff’s request only by court order, on terms that the court considers proper.” Fed. R. Civ. P. 41(b).

Tapia, Miller, Urias, and Judge Hogan have not yet filed an answer or motion for summary judgment. Thus, plaintiff has dismissed these defendants by notice pursuant to Rule 41(a)(1)(A)(i), and Tapia’s, Miller’s, and Judge Hogan’s motions to dismiss (docs. 25, 31, 85) are DENIED as MOOT. The Court will treat defendants Wells Fargo Bank, Peter Urias, and Christian Rowley’s Motion to Dismiss (doc. 42) as applying only to Wells Fargo and Rowley.

Because Rosenblum, Gutman, and Nordyke filed a Motion for Summary Judgment (doc. 95) along with other state defendants, plaintiff’s claims against Rosenblum, Gutman, and Nordyke cannot be dismissed by notice, and instead require stipulation to dismissal pursuant to Rule 41(a)(1)(A)(ii) or an order from the Court pursuant to Rule 41(a)(2). Rosenblum, Gutman, and Nordyke shall file a response by June 12, 2020, indicating whether they consent to dismissal on plaintiff’s terms. If they do not consent to dismissal, defendants’ response shall articulate their position on plaintiff’s Motion, and plaintiff shall have until June 19, 2020 to file a reply.

IT IS SO ORDERED.

Dated this 5th day of June 2020.

/s/Ann Aiken  
Ann Aiken  
United States District Judge